

STATE ALLOCATION BOARD

1130 K Street, Suite 400
Sacramento, CA 95814

**IMPLEMENTATION COMMITTEE MINUTES**

May 5, 2006

Legislative Office Building
Sacramento, CA

Members Present

Mavonne Garrity, SAB
Kathy Hicks, OPSC
Fred Yeager, CDE
Chad Rohrs, DOF
Constantine Baranoff, SSD
Mark DeMan, LAUSD

Dave Doomey, CASH (Alternate for Eric Hall)
Dennis Dunston, CEFPI
John Palmer, CASBO
Brian Wiese, AIA
Gary Gibbs, CBIA
William Cornelison, CCSESA

Members Absent

Jay Hansen, SBCTC
Richard Conrad, DSA

Debra Pearson, SSDA

SCHOOL FACILITY PROGRAM (SFP): ADJUSTMENTS TO THE NEW CONSTRUCTION BASELINE ELIGIBILITY

The topic was introduced by Mavonne Garrity and presented by Office of Public School Construction (OPSC) staff member Masha Lutsuk.

The OPSC presented the proposed SFP Regulation and Form changes to address the following issues:

- Clarifications on the types of facilities that do not constitute classrooms provided for purposes of a downward adjustment to the district's new construction baseline eligibility;
- Additional time needed to lease interim housing portables for new construction and modernization projects that take longer than five years to complete;
- The ability of school districts to replace facilities without a downward adjustment to the new construction baseline eligibility in cases where no additional classrooms are provided as a result of the replacement project.

The Committee and the audience provided the following comments during the discussion of the items listed above:

Interim housing portable leases:

- There was a request to provide a definition for the term "project" that would apply to the additional time provisions of the interim housing portable leases. Staff stated they would consider incorporating a definition into the final draft of the Regulations.
- The Committee requested the description of the legal authority for a time extension of the interim housing portable leases, which the OPSC provided.

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- There was a request to provide an automatic three year extension for interim housing portables leased more than five years. However, the OPSC believes that each extension, regardless of time period requested, should be presented to the State Allocation Board (SAB) for consideration of the circumstances of the request.

Locally funded replacement projects:

- The proposed Regulations contain a provision that precludes a school district from seeking financial hardship assistance for a period of five years from the date of a construction contract for replacement of facilities with local funds. The Committee and audience members suggested different time period restrictions, such as three years, to correspond with the three year review of the district's financial data during a financial hardship eligibility review. There was also a suggestion of 10 years, which was discussed as overly restrictive. The OPSC agreed to review the time period provision before finalizing the Regulations and to also express the different viewpoints in the item that will be presented to the Board.

NEW CONSTRUCTION – ADDITIONAL GRANT FOR REPLACED FACILITIES

The topic was introduced by Mavonne Garrity and presented by OPSC staff members Andrew Nave, Janna Shaffer, and Steven Paul.

The SAB requested the OPSC to examine possible reasons why there has been limited participation in requests for the *New Construction Additional Grant For Replaced Facilities* (Regulation Section 1859.73.2) and to determine possible modifications to the regulation to enhance district participation. This regulation provides that, as part of an SFP new construction project, a school district may demolish a single story facility and replace it with a multistory facility on the same site.

The OPSC Staff presented a brief overview of the history and current regulations regarding the Additional Grant for Replaced Facilities. Staff recommended changing the existing requirement to state that the increase in pupil capacity housed be the greater of 200 pupils or 20 percent of the existing permanent classroom design capacity at the site and presented charts to illustrate how the change would affect increase pupil capacity.

A suggestion was made that the 20 percent should be determined by the number of existing permanent classrooms in a single story facility. The Committee members and the audience agreed that using only single story permanent structures to determine the 20 percent may alleviate the lack of participation.

The OPSC agreed to change SFP Regulation Section 1859.73.2 (a)(2)(A) to read *“Twenty percent of the exiting pupil capacity housed in the permanent single story facilities (before replacement) of the school”* and present it to the May 26, 2006 SAB meeting for approval.

DISTRIBUTION OF SITE SALE PROCEEDS

The topic was introduced by Mavonne Garrity and presented by OPSC staff member Kelly Long.

The SAB requested the OPSC to make recommendations and establish a policy to capture proceeds from sale of sites funded by the SAB. The SAB sought to clarify their position regarding site sales and prevent confusion on the part of school districts.

The OPSC Staff presented an overview of the Board's authority to pursue proceeds from the sale of a site that was acquired with State assistance under the SFP. Staff acknowledged that various situations exist which may put a district in a position to sell a site acquired with State assistance. Two programs currently administered by the SAB, the SFP and the Unused Site Program (USP), may identify the sale of school sites and resulting proceeds, but Staff believes the programs do not adequately track the sale of sites.

Staff identified three steps needed to capture site sale proceeds: reporting property sales; documenting sale proceeds; and distribution of the State share of the transaction. Options for reporting site sales might include disclosure through the USP, written notice from the district, audit, or imposition of a lien on property. It was noted that implementing a lien on property acquired under the SFP would require legislative action. An audit would identify proceeds and valid expenditures associated with the sale of a site. Once identified, proceeds from the site sale would be returned to the State or applied to future projects depending on the specific circumstances. Staff presented several scenarios and actions based upon the use of a school site for its intended purpose. Staff noted that these recommendations are within the confines of existing law and that the SAB may wish to seek further clarification through legislation.

The Committee expressed doubt that the issue is so widespread as to merit additional regulations. One proposed recommendation was to respond to the SAB request with the legal opinion and a listing of projects that would fit the situation. Additionally, members felt that the tracking of property and/or sales could be achieved under the existing programs without additional regulations.

Similarly, the possibility of a lien was seen as unnecessary and/or unfavorable by the audience and Committee. Specific concerns were raised about the impact of a lien on a district's financial status and ability to incur debt. Also, it was suggested that if a lien were issued, there should be an option to release it upon construction of a school.

There was concern that certain scenarios, such as repayment of the State portion if the site was not used for a school in five years, would create debtor districts, particularly those that are in Financial Hardship. Also, questions were raised about the ability of the State to force the sale of property in order to reclaim the State's contribution.

Discussion also touched on the possibility that property could be sold at a loss and questioned whether the State would participate in loss as well as profit. It was further noted that the Naylor Act may already require sale of property at below market value.

There was a need to clarify "interest" in the discussion, making it clear that "interest" only applies to the apportionment up to the point of expenditure, not throughout the life of the project. Further, questions about interest arose regarding specific situations such as when the apportionment is reimbursing a previous purchase or is being used to make the initial deposit into an eminent domain account.

The audience also presented additional scenarios that would force delay of project, including declining eligibility or acquisition of multiple parcels. There was also a question of inter-district sales.

The OPSC recognized the various concerns and agreed it was not prudent to present recommendations to the SAB at the May meeting. Instead the OPSC agreed to examine issues raised during the discussion and to present findings at the next Implementation Committee meeting.